



NZ4U2U.com

## TERMS AND CONDITIONS SERENDIPITY HOLIDAYS LIMITED trading as NZ4U2U

This website is owned and operated by Serendipity Holidays Limited t/a NZ4U2U, NZBN 9429032032734, Transport Service Licence Number 0258652. By using this website and in consideration of NZ4U2U providing you with access to this website, you agree to the following terms which govern your access to, and use of, this website.

These terms are effective as of 1 December 2016 and supersede all previous versions of these terms. NZ4U2U can vary or replace these terms from time to time by publishing a new version on the website. You will be asked to confirm your acceptance of the terms each time you enter into a rental agreement. Unless you otherwise agree, no variation to the terms will change the operation of Part B in relation to a rental agreement already entered into at the time of the variation.

Reference to NZ4U2U in these terms and conditions will be taken to mean Serendipity Holidays Limited.

These terms consist of:  
Part A – Definitions;  
Part B – Rental Agreement;  
Part C – User Agreement;  
Part D – General

### PART A – DEFINITIONS

#### 1) DEFINITIONS

These definitions apply to Parts B, C and D of the terms.

**Accident** means a mishap or series of mishaps involving your vehicle that is unintentional and unexpected by you and arises from a single event.

**Actual Rental Period** means the period beginning at the time the Hirer takes delivery of the vehicle and ending when the vehicle is returned to NZ4U2U.

**Agreed Rental Period** means the period of rental specified in the Application.

**Application** means the application/booking form submitted through use of the site and includes any amended Application or details provided to complete a booking either verbally or electronically. The details submitted in the Application form the basis of the rental agreement once accepted.

**Accession** has the meaning given in the PPSA.

**Booking Fee** means the deposit paid equal to 10% of the Rental Charges.

**Cancellation Cap** means NZD \$5,000.

**Cancellation Fee** means fees owed to NZ4U2U for termination of the Rental Agreement

**Condition Report** means NZ4U2U's Checklist Report on the condition of the vehicle at last return before delivering the vehicle to the Hirer recording all accessories, damage and missing parts and components.

**Consumer Requirements** means any applicable laws, regulations, or regulatory guidance, including the conditions of any licence under such laws, which apply to the provision of rental vehicle services to a consumer and includes the Land Transport Rule: Operator Licensing 2007 and including any specific requirements set out in an Application.

**Damage means:**

- (a) scratches;
- (b) dents;
- (c) damage to, or loss of or to the functioning of, any vehicle components or accessories supplied with the vehicle; and
- (d) deterioration in the vehicle's condition or value (otherwise than through normal wear and tear and depreciation).

**Daily Rental Fee** means the daily rate applicable for the hire of the caravan for the dates specified in the application.

**Debt Collection Fees** are all fees charged by 3<sup>rd</sup> person agency in the collection of outstanding monies owed to NZ4U2U in accordance with the terms and conditions of hire.

**Excess Cleaning Fee.** This is the fee that will be charged for vehicles returned in an excessively clean and untidy state and will be charged at NZD \$50 per hour.

**Group Policy** means any group insurance policy, purchased to provide insurance protection for NZ4U2Us and Hirers.

**Hirer** means the user of the vehicle under the hire contract.

**Hirer Cancellation Fee** means the fee so named which is calculated and charged in accordance with clause 26.

**Hirer's Nominated Account** means the account specified by the Hirer for payment of Rental Charges and other amounts payable by the Hirer under a Rental Agreement including any substitute account nominated by the Hirer.

**Instruction sheet** means the instructions provided for the use of the vehicle.

**Late Rental Charge** means the charges when the vehicle is not returned on or before the Return Time.

**Maximum Cleaning Fee** means NZD \$350.

**PPSA** means Personal Property Securities Act 1999.

**PPS Register** means the Personal Property Securities Register established under the PPSA.

**Privacy Policy** means NZ4U2U's [Privacy Policy](#) as amended from time to time and as available at the site.

**Proceeds** has the meaning given in the PPSA (which generally means personal property that is derived directly or indirectly from dealing with, or insurance of, the vehicle).

**Processing Fee** means a fee that is charged to cover the cost of processing and on charging costs incurred by the Hirer.

**Related Body Corporate** has the meaning given in section 50 of the Corporations Act 2001 (Cth).

**Relevant Collateral** means "collateral" (as defined in the PPSA) which is the subject of a Security Interest, if any, granted under the Rental Agreement (this will usually be the vehicle).

**Relevant Country** means the country in which the vehicle is located.

**Rental Agreement** means the agreement formed as a result of the application upon which NZ4U2U rents the vehicle to the Hirer. These terms and conditions form part of the rental agreement.

**Rental Charges** means the amounts specified as daily rental fee for the vehicle in the application and supplementary charges for associated items e.g. awnings or bike rentals.

**Return Date** means the last day of the Agreed Rental Period.

**Return Location** means the location (if any) specified in the Application, and if no location is specified, the location at which the Hirer takes delivery of the vehicle.

**Return Time** means the time on the Return Date communicated to the Hirer by which the vehicle has to be returned to the Return Location.

**Security Deposit** means the amount set out in the Application as the bond.

**Security Interest** has the meaning given in the PPSA (which generally means an interest in personal property provided for by a transaction that secures payment or performance of an obligation but which can also include certain leases of goods).

**Short Term Hiring** means a bailment, hiring or lease of goods which does not give rise to a Security Interest for example, because the Agreed Rental Period for the vehicle is less than one year.

**Site** means the website or mobile application operated by NZ4U2U brand/trademark.

**Soiling Fee** means NZD \$300.

**Supplement charges** means items in addition to the caravan daily hire rate selected as optional extras by the Hirer in their application.

**Terms** means these terms comprising

- Part A - Definitions,
- Part B - Rental Agreement
- Part C - User Agreement
- Part D - General

**Users** means person that accesses or uses the site.

**Vehicle** means the vehicle described on the website and can include a car, caravan or a boat and includes its parts, keys, remote opening devices, NZ4U2U's manual, service records, and any components or accessories supplied with the vehicle whether or not they are attached to the vehicle.

### PART B - RENTAL AGREEMENT BETWEEN THE NZ4U2U AND THE HIRER

This Part B contains the terms of the rental of the vehicle to the Hirer. By agreeing to an application in relation to a vehicle, NZ4U2U and the Hirer each agree to comply with the terms in this Part B in relation to the letting of the vehicle by NZ4U2U to the Hirer.

#### 2) RENTAL

NZ4U2U may advertise vehicles for hire and take bookings either through the submission of an application via its website or by phone or email.

- i) Subject to payment of the security deposit and the rental charges, NZ4U2U agrees to supply the vehicle to the Hirer on short term hire, and the Hirer agrees to take the vehicle on short term hire from NZ4U2U, for the agreed rental period.
- ii) The Hirer agrees to pay the rental charges in the amounts specified in the application and all other amounts the Hirer is liable to pay to NZ4U2U under



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- iii) these terms. For the purposes of making such payments, the Hirer authorises NZ4U2U to charge or otherwise debit the Hirer's nominated account.
- iv) The rental charges must be paid in full at the time the vehicle is collected.
- iv) The description of the vehicle at the time of the booking becomes part of the rental contract.
  - (a) If there are any details that are explicitly stated in the description that contravene this rental contract, e.g. bond amount or insurance coverage provided, the vehicle description takes precedence.
- v) NZ4U2U may, at its sole discretion, offer a replacement vehicle to a Hirer to fulfil a rental agreement where the application has not proceeded as booked or a vehicle cannot be used. Such replacement vehicle will be provided to the Hirer on separate rental terms between NZ4U2U and the Hirer.
- vi) A rental agreement may be extended with the agreement of NZ4U2U, and the Hirer. Any additional rental charges, security deposit, and service fees, will be processed by NZ4U2U in accordance with the relevant provisions of these terms.
- vii) The Hirer acknowledges and agrees that nothing in the rental agreement conveys title in the vehicle and that the Hirer takes delivery of the vehicle as bailee only.
- viii) The Hirer must return the vehicle at the time and to the place specified.

### 3) RESPONSIBILITY

The Hirer is responsible to NZ4U2U, and must indemnify NZ4U2U, for any:

- (a) Damage to the vehicle;
  - (b) Tolls, penalties, fines or infringement fees relating to use of the vehicle;
  - (c) Confiscation or seizure of the vehicle, during the actual rental period.
- i) The Hirer has no responsibility or liability to NZ4U2U for any of the matters to the extent that such matters have arisen from any act or omission of NZ4U2U outside the actual rental period.
  - ii) NZ4U2U excludes, to the extent permitted by law, any liability to the Hirer for:
    - (a) personal injuries sustained during the actual rental period; and
    - (b) any loss or damage to personal belongings.

NZ4U2U strongly recommends the Hirer takes out personal travel insurance to cover any injury or loss.

- iii) NZ4U2U may deduct the amounts of any tolls, penalties, fines or infringement fees from the Hirer's nominated account irrespective of whether the Hirer has notified NZ4U2U of these in advance. The Hirer should notify NZ4U2U within 3 working days of receiving notice of any amounts that need to be processed. NZ4U2U is entitled to charge a processing fee.
- iv) NZ4U2U must remit any infringement fee paid by the Hirer to the appropriate enforcement authority as soon as is practicable.

### 4) DELIVERY OF THE VEHICLE

- i) Upon commencement of the agreed rental period, NZ4U2U must make the vehicle available to the Hirer for inspection and collection in a clean and roadworthy condition.
- ii) Before taking delivery of the vehicle, the Hirer must inspect the vehicle and satisfy himself or herself that as to the condition of the vehicle. Any damage is to be noted by way of photo and documented.
- iii) Without limiting the Hirer's rights under this rental agreement, the Hirer may decline to take delivery of the vehicle if its specifications or condition differ materially to the any specifications or description of condition published by NZ4U2U on the site.
- iv) Upon taking delivery of the vehicle, the Hirer acknowledges that he or she is now responsible for the return of the vehicle in the same condition as it left. For the avoidance of doubt photos and the caravan checklist can be used as evidence of a change in condition.
  - (a) To the extent permitted by law, liability of NZ4U2U for any statutory implied warranties, conditions, consumer guarantee or rights is excluded.

### 5) RETURNING THE VEHICLE

- i) The Hirer must return the vehicle on the return date at the return time and return location.
- ii) If the vehicle is not returned on or before the return time, the Hirer must pay to NZ4U2U a late rental charge for each whole or part day by which the actual rental period exceeds the agreed rental period. The late rental charge for each such whole or part day is calculated as 150% of the rental charge imposed for each day of the agreed rental period. For the avoidance of doubt, where the vehicle is returned one hour after the return time, the amount of the late rental charge for that part day, will be 150% of the rental charges for a full day during the agreed rental period.
- iii) The Hirer must return the vehicle with a full bottle of gas (if applicable), and in a clean condition. Proof of a full gas bottle must be supplied in the form of a receipt for a refill from the day of return.
- iv) The toilet and wastewater tank must be emptied prior to the return of the vehicle, otherwise the Hirer must pay to NZ4U2U a soiling fee.
- v) For any personal property left after the hire, it is the Hirer's responsibility to acquire this from NZ4U2U.
  - (a) NZ4U2U holds no liability for the property, and is under no obligation to return it to the Hirers and takes no responsibility for any personal property left in a vehicle after the hire is completed.
- vi) Upon giving 24 hours advance notice, the Hirer may return the vehicle early to NZ4U2U by delivering it to the return location.
- vii) Late pick up or early return of the vehicle does not entitle the Hirer to any partial or total refund of the rental charges.
- viii) If for any reason, NZ4U2U agrees to allow the vehicle to be returned to a place other than that specified in the application, the Hirer will comply with any other requirements for the return of the vehicle including at the discretion of NZ4U2U any applicable relocation fees to return the vehicle to NZ4U2U offices.
- ix) These rental agreement terms apply to any variation or extension of the rental agreement.

### 6) PAYMENT

- i) The Hirer agrees to complete payment for the vehicle on hire as follows.
  - (1) At booking 100% of the rental charges. Any cancellation will result in the return of rental charges in accordance with NZ4U2U's cancellation policy.
- ii) In the case where there are outstanding monies owed. NZ4U2U can at the completion of 30 days overdue charge interest at the rate of 5% per month on the outstanding balance.
- iii) Without limiting NZ4U2U's rights against the Hirer, the Hirer agrees to pay to NZ4U2U the security deposit or bond set out in the application or to provide a nominated account at check in and consent to NZ4U2U charging to the nominated account provided by the hirer any costs towards wholly or partially satisfying the Hirer's liability to NZ4U2U arising from and in the following circumstances:
  - (a) Where inspection of the vehicle following its return indicated:
    - (i) it has suffered damage during the actual rental period; or
    - (ii) that liability has arisen in accordance with these terms and conditions
  - (b) the Hirer had defaulted in paying any of the rental charges;
  - (c) NZ4U2U has received notice of any fine, penalty, fine, infringement fee or toll incurred during the actual rental period;
  - (d) the Hirer fails to return the vehicle for any reason;
  - (e) excess cleaning charges are required;
  - (f) proof of gas bottle fill for the day of return has not been provided;
  - (g) satisfaction of soiling fees if applicable.
- iv) If the Hirer cancels a rental agreement before taking delivery of the vehicle, the Hirer will be liable to pay NZ4U2U's cancellation fee to NZ4U2U.
- v) The Hirer agrees that NZ4U2U is entitled to retain the details of the nominated account and to take any action to recover from the nominated account the amounts due by the Hirer pursuant to these terms and conditions.
- vi) Any debt collection fees incurred in the collection of outstanding monies owed to NZ4u2u will be charged to the customer and added to the outstanding amount owed to NZ4u2u.

### 7) USAGE

- i) The Hirer must ensure they follow the instruction sheets provided with the vehicle and where applicable the care and use of the awning;
- ii) Without prior agreement, the Hirer must not use or allow the vehicle to be used:
  - (a) outside his or her authority;
  - (b) in the following places:
    - (i) on railway or tramway lines, tracks or cable; or
    - (ii) in any underground mine, quarry, tunnel (excluding public roads), excavation or cavity; or
    - (iii) on any roads not hard sealed;
  - (c) under the influence of illegal drugs;
  - (d) when it has been damaged or unsafe;

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- (e) to carry any substance that is dangerous, explosive, inflammable, corrosive or toxic.
  - (f) for racing, pace making, reliability trial, hill climbing or speed tests, or being driven in preparation for any one of these activities such as pace noting; or participating in any directly associated activity such as safety vehicle duties where the vehicle is required to be on the track or trackside; or
  - (g) for advanced or high performance driver training events; or
  - (h) for any stunt, or film, video or audio recording including the preparation thereof; or
  - (i) for any experiment; or
  - (j) on gravel roads or for recreational off roading which is not on a public road. The vehicle must not be operated "off road"; or
  - (k) on Ball Hut Road (Mt Cook), 90 Mile Beach (Northland), and Skippers Canyon Road (near Queenstown); or
  - (l) in snowy conditions (that is, in areas where there has been recent snowfall or where snow has accumulated on or near the road the vehicle is being operated on) without the proper equipment (e.g. snow chains); or
  - (m) on any road or section of road that has been compromised including through flooding, debris or earth movements; or
  - (n) on any surface, or in any conditions specified as excluded in the application.
- iii) The vehicle must only be operated on properly constructed sealed roads.
  - iv) If the vehicle breaks down the Hirer must notify NZ4U2U immediately and stop using the vehicle.
- 8) HIRER'S OBLIGATIONS
- i) All reasonable care is taken in handling and parking the vehicle and that it is locked when not occupied and appropriate trailer locks are in place.
  - ii) All loose items in the caravan are secured while travelling. Damage that occurs due to the movement of items in the caravans will be charged to the Hirer.
  - iii) Ensure the water pump is only operated with water in the water tank. Burnt out pumps are the responsibility of the Hirer.
- The Hirer must ensure that:
- (a) each authorised driver has, and carries with them, a current and unrestricted driver's licence at the time of driving the vehicle;
  - (b) each authorised driver complies with the rental agreement;
  - (c) each authorised driver is aware of and obeys all applicable traffic and road safety laws and regulations;
  - (d) the vehicle is not operated in any race, speed test, rally or contest, or while being tested in preparation for any motor sport event;
  - (e) the vehicle is not operated, and the Hirer does not act, in any manner which would void or exclude NZ4U2U's ability to make a claim under the Group Policy.
  - (f) no persons interfere with any part of the braking and/or suspension systems of the vehicle or in fact with any parts of the vehicle that will affect the safety and normal functioning of the vehicle.
  - (g) smoking is not permitted and/or animals (excluding registered guide or assistance dogs) are not allowed in the vehicle at any time. If this condition is breached, the Hirer must pay to NZ4U2U an appropriate cleaning fee determined by NZ4U2U and being not more than the Maximum Cleaning Fee (if any).
- iv) The Hirer must obtain the permission of NZ4U2U before undertaking repairs. If the Hirer repairs the vehicle without NZ4U2U's consent, the Hirer must retain and provide NZ4U2U with the original tax invoice.
    - (a) NZ4U2U will reimburse the Hirer for any agreed and approved costs of repair where an original tax invoice is provided. However, NZ4U2U reserves the right not to reimburse the Hirer (in whole or in part) if NZ4U2U reasonably considers that the costs of the repair are excessive, or the repairs have been conducted in a defective manner or were not needed.
  - v) The Hirer confirms that all information supplied by them to NZ4U2U in connection with this agreement is true and accurate and the Hirer will immediately notify NZ4U2U of any change to the information.
- The Hirer must not:
- (a) sublet or hire the vehicle to any other person.
  - (b) use the vehicle or permit the vehicle to be driven otherwise than in a prudent and cautious manner;
  - (c) permit the vehicle to be operated for the transport of more than the gross vehicle mass specified in the certificate of loading for the vehicle;
  - (d) permit the vehicle to be driven by any other person that is not the holder of a current driver's licence appropriate for the vehicle;
  - (e) permit the vehicle to be used with a generator.
  - (f) must not repair or make any modifications or additions to the vehicle without first seeking NZ4U2U's consent.
- 9) INSURANCE PROVIDED
- i) NZ4U2U maintains, at its own expense, a fleet insurance policy that covers each Hirer for damage to a vehicle rented through this website. This policy does not cover the non-return of the vehicle. This is the hirers responsibility.
  - ii) A liability reduction can be purchased for the vehicle. The liability reduction reduces the Hirer's liability to NZD \$500 for each insurable incident, for items that are covered under the NZ4U2U Group Motor Vehicle Insurance.
  - iii) The payment for liability reduction does not exempt the Hirer from other incidental charges in the case of non-insurable damage.
    - (a) Non-insurable damage includes but is not limited to:
      - (i) Damage to or loss of chattels in the vehicle- e.g. microwaves, fridges, cutlery and crockery
      - (ii) Cosmetic damage to the vehicle as a result of negligent behaviour - e.g. fixings/ trimmings on the vehicle, seat covers, interior damage that does not affect the vehicles function.
      - (iii) Repair or replacement of tyres and damage to windows, except as the result of an insurable event
    - (b) If no liability reduction is purchased, the Hirer is liable for any cost of up to NZD \$3,000 for each insurable incident and for the full cost of repairs relating to uninsurable incidents under the insurance policy
- 10) ACCIDENT PROCEDURES
- Responsibilities
- In the event of any damage to or accident involving the vehicle during the actual rental period the Hirer must:
- i) notify NZ4U2U +64 220 694828 of the full circumstances as soon as practicable (being not more than 24 hours) from the time the Hirer has knowledge of the damage or accident.
  - ii) take reasonable steps to obtain the names and addresses of third parties and any witnesses;
  - iii) where required by law, report the accident to police, regardless of estimated damage costs;
  - iv) not accept blame or insist the other party is at fault and that no promise of payment, offer, admission of liability, settlement, waiver, release or indemnity is given or accepted without NZ4U2U's, relevant insurer's consent; ;
  - v) if possible, photograph damage to all vehicle(s), the scene and registration number(s);
  - vi) under no circumstances should the Hirer attempt to drive a vehicle that has been damaged as a result of being involved in an accident, damaged by roll-over, water submersion or any other means without permission from NZ4U2U. If the vehicle is un-driveable after an accident and the Hirer would like to have a replacement vehicle, which will be subject to time, distance and availability, the Hirer must make his/her own way (at the Hirer's expense) to the nearest pick up location. Should the Hirer require a changeover vehicle, a new vehicle security deposit is required;
  - vii) ensure that if the vehicle cannot be safely driven, it is towed or otherwise transported in accordance with directions of NZ4U2U; and,
  - viii) agrees to provide all reasonable assistance to NZ4U2U and its insurers in handling any claim including providing all relevant information and attending court to give evidence.
- Liability
- i) The Hirer indemnifies NZ4U2U for all loss, costs, damage and liability suffered or incurred by the Hirer or any third party as a result of any collision or accident or other event arising out of the use of the vehicle during the actual rental period. This amount is payable at the time of reporting 'the event' and not at completion of the agreed rental period.
  - ii) NZ4U2U shall use best endeavours to ensure that any money due back to the Hirer is forwarded as quickly as possible, however third party claims can take months or even years to resolve. NZ4U2U cannot force the destiny of these claims, and the Hirer acknowledges that handling of these claims is up to NZ4U2U and its insurer where applicable and the third party, whether they be insured or not.
  - iii) NZ4U2U agrees to refund any vehicle security deposit where applicable within 60 days of receiving final resolution and payment relating to Third Party claims.
  - iv) The Hirer indemnifies NZ4U2U for any damage to, or loss of, the vehicle occurring during the actual rental period and for any liability to any third party for death, personal injury or property damage or any financial or other consequential loss.
  - v) Except as expressly set out in these terms or in the Consumer Guarantee, NZ4U2U, its employees or agents will have no liability for any loss or damage of any kind whatsoever, except where such loss or damage is due to a wilful act or omission of NZ4U2U or its employees or agents.



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- vi) To the extent permitted by law, NZ4U2U will have no liability to any party under these terms for any indirect or consequential losses, including loss of profits, business, income or savings that arise as a result of an accident or event arising out of the use of the vehicle during the actual rental period.
- vii) Where the vehicle has been damaged as a result of negligent use or use outside of that permitted in the rental agreement, the Hirer indemnifies NZ4U2U for consequential losses suffered as a result, including but not limited to, the loss of profits and the costs of providing alternative accommodation and reimbursement of sundry costs incurred by a Third Party. NZ4U2U can charge to the nominated account for these amounts.
- 11) REPOSSESSION OF THE VEHICLE
- i) NZ4U2U may refuse to deliver the vehicle or may take reasonable measures to repossess the vehicle thereby terminating the hiring of the vehicle at the Hirer's expense if:
- (a) the Hirer breaches any terms in this rental agreement;
- (b) in NZ4U2U's reasonable opinion:
- (i) the Hirer has acted fraudulently in connection with this agreement;
- (ii) the Hirer has abandoned the vehicle;
- (iii) the Hirer has allowed the vehicle to be used in circumstances which may result in any insurance claim being denied.
- 12) EARLY TERMINATION
- i) The Hirer may elect to terminate the hiring of the vehicle before expiry of the agreed rental period. The Hirer will not become entitled to any refund of rental charges upon any such early termination but, upon return of the vehicle, risk in the vehicle will pass back to NZ4U2U.
- 13) PPSA
- i) The Hirer acknowledges that:
- (a) that the hiring does not give rise to a security interest and agrees to take all steps necessary to ensure that the vehicle does not become subject to a security interest by virtue of the Hirer's possession of the vehicle.
- Without limitation, the Hirer must:
- (b) return the vehicle in its possession within 360 days of the commencement of the actual rental period; and
- (c) otherwise ensure that no security interest arises over any of the vehicle.
- ii) The Hirer agrees to ensure that unless otherwise agreed in writing by NZ4U2U:
- (a) The vehicle does not become a fixture to any land;
- (b) The vehicle does not become an accession to other goods; and
- (c) it takes such steps as NZ4U2U reasonably requires to prevent or remedy the affixation of the vehicle to any land or goods.
- 14) HEALTH AND SAFETY
- i) NZ4U2U requires that all Hirers comply with NZ4U2U Health and Safety Policy. NZ4U2U cannot be held liable for any harm as a result of a breach of the policies or as a result of the silence in the policies.
- ii) NZ4U2U requires that all hirers use common sense and take precautions to ensure the safety of themselves and members of the public and, or Third Parties.
- iii) The hirer will promptly provide such information and complete such forms as the Company may require in relation to any event or circumstance. The Hirer will take all reasonable steps and follow all reasonable Company directions to avoid, remedy or mitigate any Hirer breach or anticipated breach of this agreement or any health and safety, security or environmental risk or incident.
- 15) GPS TRACKING DEVICE
- i) The Hirer consents for NZ4U2U to use a GPS tracking device for the purpose of tracking the location and movement of the vehicle.
- 16) SPECIAL CONDITIONS
- i) This agreement includes any terms set out as special conditions in the application.

### **PART C - USER AGREEMENT BETWEEN NZ4U2U AND THE USER**

This Part C contains the terms of the services supplied by NZ4U2U to Users. By accessing the site, the users agree to comply with these terms.

- 17) APPLICATION
- These terms apply to all services supplied by NZ4U2U to users. All other terms and conditions, express or implied, present or historic (including any statements made in any brochure, website or advertising literature of NZ4U2U) are excluded, except as required by law.
- 18) USER CONDUCT
- Each user agrees not to use the site in breach of any applicable laws or regulations; Without limiting the above, each user agrees that it will not allow any Third Party to:
- i) use any method or process (including data scraping, web-bots, collection or accumulation tool, robot, spider or scripted responses) for the purpose of obtaining, processing, copying, replicating, distributing, reconfiguring, republishing, viewing, assessing, analysing, modifying or repackaging the content of the site;
- ii) use, obtain, or attempt to obtain from the site, information in order to identify or discover pricing, underwriting, rating and related business methodology or systems; or
- iii) do anything which will or may damage, disrupt access to, or interfere with, the proper operation of the site.
- iv) NZ4U2U reserves the right to block or suspend any user of the site, and to modify or remove any material uploaded, posted, transmitted or otherwise made available on the site by any user, without notice. By uploading, transmitting, posting or otherwise making available any material via the site, each user grants NZ4U2U a non-exclusive, worldwide, royalty-free, perpetual licence to use, reproduce, edit and exploit the material in any form and for any purpose, and unconditionally waives all moral rights as defined by the Copyright Act 1968 (Cth). NZ4U2U is not responsible for, and accepts no liability with respect to, any material uploaded, posted, transmitted or otherwise made available on the site by any person other than NZ4U2U. NZ4U2U does not endorse any opinion, advice or statement made by any person other than NZ4U2U.
- v) Each user agrees to indemnify NZ4U2U, its related bodies corporate and each of the officers, employees, agents, contractors, suppliers and licensors of NZ4U2U and its related bodies corporate in respect of any liability, loss or damages (including all legal and other costs on a full indemnity basis) suffered or incurred by them arising (in whole or part) out of the breach of, or failure to comply with, any of these terms, or any other default or wrongful conduct in relation to the subject matter of these terms, on the part of the user or any of the user's representatives, or, in the case of a Hirer, any of Hirer's authorised drivers.
- 19) LINKING AND THIRD PARTY CONDUCT
- i) Each user agrees not to link to, frame or mirror any part of the site without NZ4U2U's prior written authorisation. The site may contain links to or display the content of Third Parties (Third Party Content), including links to websites operated by other organisations and individuals (Third Party Websites). Third Party Content and Third Party Websites are not under the control of NZ4U2U. NZ4U2U does not endorse, approve or make any warranty or claim regarding Third Party Content, Third Party Websites or the products, services or information available on any Third Party Website, or in respect of NZ4U2U or operator of a Third Party Website or their conduct. Each user agrees that if it uses or relies upon content of Third Party Websites, it does so solely at its own risk.
- ii) The site may contain advertisements for third parties' goods and/or services. The Third Party advertisers are responsible for the accuracy of all representations made in those advertisements. Neither NZ4U2U nor its officers, directors, employees or agents recommend or endorse the goods or services that may be advertised on the site, nor do they offer the goods or service for sale or make any other representation whatsoever about them. If a user purchases any product or service advertised by a third party on the site, the user does so at the user's risk.
- 20) PRIVACY AND ELECTRONIC DELIVERY CONSENT
- i) By using the site, each user agrees to the collection, use and disclosure of personal information as described in NZ4U2U's Privacy Policy, each user agrees to the delivery of documents and other communications by electronic means.
- 21) CANCELLATION
- i) If a rental agreement is cancelled by the Hirer before the vehicle is delivered to the Hirer:



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## TERMS AND CONDITIONS SERENDIPITY HOLIDAYS LIMITED trading as NZ4U2U

- (a) the Hirer is liable to pay NZ4U2U's cancellation fee as specified clause 21 iii).
- (b) NZ4U2U will refund to the Hirer any rental charges it holds, less NZ4U2U's Cancellation Fee as specified in clause 21 iii);
- ii) In the rare instance where extenuating circumstances arise, and NZ4U2U may need to cancel a confirmed booking. Instances may include any of the following that happened shortly prior a planned pick up:
  - (i) Unforeseeable maintenance requirements of the vehicle
  - (ii) Accidental damage that cannot be repaired or repaired on time
- iii) Cancellation table below:

Cancellation Fee Calculation: Cancellation Period	Cancellation Fee (the Hirer cancels the trip)
60 days or more before Delivery Date	Booking fee (deposit)
60 to 6 days before Delivery Date	50% of the Rental Charges (up to a maximum of an amount equivalent to Rental Charges for 20 days)
Cancellation occurs within 5 days of the Delivery Date (including by failing to pick up the vehicle)	100% of the Rental Charges (up to a maximum of an amount equivalent to Rental Charges for 30 days)

Cancellation Fee Calculation: Cancellation Period	Cancellation Fee (NZ4U2U cancels the trip)
Any time before the Delivery Date	NZD \$200

Delivery date means, in relation to a rental agreement:

- (a) if the rental agreement has been amended at the request of the Hirer, the first day of the agreed rental period in relation to the first, unamended rental agreement; and
- (b) otherwise, the first day of the agreed rental period.
- iv) the Booking Fee (deposit) charged by NZ4U2U to the Hirer is not refundable.

### 22) LIMITATION OF LIABILITY

- i) This site is provided by NZ4U2U on an 'as is' basis without any express implied warranty of any kind.
- ii) To the extent permitted by law, all other representations, warranties, descriptions and conditions, whether express or implied by law and/or oral or written, as to the state, quality of and the standard of the services are expressly excluded.
- iii) Nothing in these terms will affect any rights users or any other person may have under the Consumer Legislation. However, where the services are not of a kind ordinarily acquired for personal, domestic or household use and consumption, then the liability of NZ4U2U to users is limited in accordance with clause 22 (iv).
- iv) Except where any Consumer Legislation expressly requires otherwise, NZ4U2U's total aggregate liability under any proceedings or law in connection with the services or these terms is limited at NZ4U2U's option to the supply of the services again, or \$500.
- v) NZ4U2U does not warrant that access to or use of the site will be uninterrupted or error free or that the site or any material on or accessible through the site is free from errors or viruses, worms, trojan horses, time bomb, cancelbot or other harmful components.
- vi) NZ4U2U does not warrant anything about the reliability, accuracy, completeness, timeliness, suitability, quality, physical state or for a particular purpose of any material on or accessible through the site;
- vii) NZ4U2U may change any of the material on the site at any time without notice;
- viii) NZ4U2U makes no commitment to update any material on the site;
- ix) Each user is responsible for assessing the accuracy, reliability, suitability of the material on or accessible through the site;
- x) Each user accepts all risks and responsibility for all loss, damage, costs and other consequences resulting from using the site or the material on or accessible through the site or arising from entry into a rental agreement on the terms set out in Part B;
- xi) Neither NZ4U2U nor any of its officers, directors, employees or agents shall be liable for any loss or damage including without limitation, losses or damages for loss of profits, business interruption, loss of information, indirect, special, punitive or consequential losses or damages arising out of the use of, or inability to use, the material or information available on or accessible through the site, even if NZ4U2U has been advised of the likelihood of such damages.

### 23) RELEASE AND INDEMNITY

#### Release

- i) By accessing the site, each user assumes all risks associated with its use, including but not limited to the risk the user's computer, software or data may be damaged by any virus transmitted by the site or by any Third Party content or Third Party website. To the extent permitted by law, all warranties, conditions and claims (whether express or implied) arising out of or in any way connected with the site are hereby excluded. By accessing the site, each user agrees to indemnify NZ4U2U for any loss, damage, costs or expenses whatsoever suffered by any person or entity arising out of or in any way connected with the user's access to the site.
- ii) To the full extent permitted by law, NZ4U2U, its related bodies, corporate and officers, employees, sub-contractors and agents of NZ4U2U and its related bodies, corporate will not be liable to any user for any special, indirect or consequential damages, including consequential financial loss arising out of access and use of the site, hire and use of a vehicle or a rental agreement.

#### Indemnity by Users

- iii) Each user indemnifies and continues to indemnify NZ4U2U, its officers, employees, sub-contractors and agents from and against all actions, claims, proceedings or demands (including those brought by third parties) which may be brought against it or them, whether on their own or jointly, in respect of any loss, death, injury, illness or damage (whether personal or property, and whether special, direct, indirect or consequential, including consequential financial loss) in connection with access and use of the site, hire and use of a vehicle or a rental agreement.
- iv) The obligation to indemnify NZ4U2U and its officers, employees, sub-contractors and agents is a continuing obligation, separate and independent of other obligations, and survives the expiration or termination of these terms.

### PART D - GENERAL

#### 24) INTELLECTUAL PROPERTY

- i) NZ4U2U is a trade mark of Serendipity Holidays Limited.
- ii) All material on the site or otherwise provided to users in connection with the services, including the text, information, documents, graphics, logos, design, layout, downloads, pricing, products and services (Content) is owned by or licensed to NZ4U2U.
- iii) Users must not reproduce, transmit, adapt, distribute, sell, modify, publish or store any content or Trade Marks, in any manner and for any purpose without NZ4U2U's prior written approval, or as permitted by law. All rights of NZ4U2U are reserved.
- iv) Trade marks used on the site to describe third parties and their products or services are Trade Marks of those third parties.



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## TERMS AND CONDITIONS SERENDIPITY HOLIDAYS LIMITED trading as NZ4U2U

- 25) REMEDIES CUMULATIVE
- i) The rights, powers and remedies provided to a party under these terms are in addition to, and do not exclude or limit, any right, power or remedy provided by the law or equity or any agreement.
- 26) TERMINATION AND SUSPENSION
- i) NZ4U2U may (without prejudice to its other rights or remedies) terminate or suspend all or part of the services to any user and require immediate payment of all unpaid amounts owing to NZ4U2U in the following circumstances:
    - (a) upon a user becoming bankrupt or insolvent or a receiver, insolvency administrator or encumbrancer taking possession of any material part of the user's assets;
    - (b) where the user is in breach of these terms and fails to remedy such breach within a reasonable time (as determined in the sole discretion of NZ4U2U) of receiving notice of the breach by NZ4U2U; or
    - (c) upon NZ4U2U having reasonable grounds for suspecting that an event will occur that will cause (a) or (b) above.
- 27) DISPUTE RESOLUTION
- i) If a dispute arises out of or in connection with this agreement, the parties will co-operate and use reasonable endeavours to resolve the dispute expeditiously by negotiation or mediation.
  - ii) NZ4U2U may choose to resolve the dispute by referral to the Small Claims Tribunal and the decision of this tribunal shall be considered final.
  - iii) If for any reason the dispute is not resolved by reference to the Small Claims Tribunal or within 7 days of entering into negotiations or, or within such further period as the parties may agree upon in writing, the parties will refer the dispute to mediation. The mediator and the mediator's fee shall be agreed by the parties or, failing agreement within 7 days of the referral to mediation, appointed and determined by the President for the time being of the New Zealand Law Society. Unless the parties agree otherwise, the mediation will be conducted in terms of the standard mediation agreement promulgated by LEADR New Zealand Incorporated at the time the dispute is referred to mediation. All discussions during the mediation process shall be without prejudice and shall not be referred to in any later proceedings. Each party shall bear their own costs in mediation and shall meet the costs of the mediator equally between them. If the matter is not resolved by mediation within 14 days of the appointment of the mediator (or within such further period as the parties may agree in writing) then the mediation process shall be deemed to have terminated and the matter shall be referred to arbitration.
  - iv) Regardless of the other provisions of this clause, any party may at any time refer the dispute to arbitration.
  - v) Arbitration shall be conducted, in Christchurch, by one arbitrator to be agreed upon by the parties or, failing an agreement within 14 days of notice given pursuant to clause iii), or 14 days after termination of the mediation process pursuant to clause i), to be nominated by the President for the time being of the New Zealand Law Society at the request of either party.
- 28) SEVERANCE
- i) Any clause in these terms which is prohibited or unenforceable in any jurisdiction will be ineffective in that jurisdiction to the extent of the prohibition or unenforceability. This will not invalidate the remaining provisions of these terms nor affect the validity or enforceability of the provision in any other jurisdiction.
- 29) FORCE MAJEURE
- i) NZ4U2U shall not be liable for any failure to comply with its obligations under these terms related to any circumstances whatever (whether or not involving NZ4U2U's negligence) which are beyond NZ4U2U's reasonable control and which prevent or restrict NZ4U2U from complying with these terms. However, NZ4U2U may where reasonable and without liability suspend or terminate all or some of its obligations under these terms if NZ4U2U's ability to fulfil such obligations is materially impaired.
- 30) GENERAL
- i) Notices must be in writing to the address as notified by the parties (as applicable) and are deemed delivered on the day of delivery by hand, or (subject to the sender not receiving an error message) by email.
  - ii) No failure by NZ4U2U to enforce any provision of these terms will be construed as a release of its rights relating to that provision or to sanction any further breach.
  - iii) These terms are governed by the laws of New Zealand
- 31) USE OF THE SITE
- i) At the time of first use of the site, each user warrants that they are at least 18 years of age.
- 32) GOVERNING LAW
- i) The rental agreement is governed by the laws of the place of registration of the vehicle.
- 33) ADDITIONAL DOCUMENTS TO BE READ IN CONJUNCTION WITH THESE TERMS AND CONDITIONS
- i) Caravan Checklist
  - ii) Instruction sheets
  - iii) Checklist